

1 VICTOR PODGORNY,

2 Plaintiff,

3 vs.

4 **ORDER GRANTING PLAINTIFF'S**
MOTION FOR AWARD OF
ATTORNEY'S FEES

5 JO ANNE B. BARNHART, Commissioner of
6 Social Security,

7 Defendant.
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16 **INTRODUCTION**

17 Counsel for Plaintiff Victor Podgorny moves for \$30,425.00 in attorney's fees for his
18 representation of Podgorny before this Court pursuant to 42 U.S.C. § 406(b). Because the
19 contingency fee agreement between Podgorny and his counsel for 25% of total past-due benefits is
20 reasonable, the motion is granted.

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28 **DISCUSSION**

29 Section 406(b) authorizes a district court to award attorney's fees where the case is remanded
30 to the Social Security Administration for further proceedings and, following the remand, the
31 claimant is subsequently awarded past-due benefits. 42 U.S.C. § 406(b)(1)(A). In reviewing
32 counsel's request for an award, the Court must ensure that the contingency fee agreement yields
33 "reasonable results" under the circumstances. *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002).
34 Factors relevant to the reasonableness determination include the character of the representation and
35 the results achieved. *Id.* at 808. Attorney's fees may be reduced if the attorney is responsible for

1 delay or if the benefits are large in comparison to the amount of time counsel spent on the case, and
2 must be reduced to the extent the fee requested exceeds 25% of the benefits awarded to the plaintiff.
3 *Id.* at 807, 808.

4 Here, counsel's request for attorney's fees in the total amount of \$30,425.00 is reasonable in
5 light of the legal standards set forth in *Gisbrecht* and the facts of this case. Counsel successfully
6 appealed an initial denial of benefits and obtained desirable results for his client. Moreover, there is
7 no evidence that counsel is responsible for any delay, or any basis for concluding that the total past-
8 due benefits awarded to Plaintiff - \$121,702.40 - are large compared to the amount of time counsel
9 spent on the case.

10 **CONCLUSION**

11 Based on this analysis, the Court approves counsel's request for \$30,425.60 in attorney's fees
12 pursuant to § 406(b), to be paid out of Podgorny's past-due benefits, subject to the deduction of any
13 fees paid to date.

14 **IT IS SO ORDERED.**

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16 Dated: November 17, 2008



17 MARIA-ELENA JAMES
18 United States Magistrate Judge
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